

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

360 MORTGAGE GROUP, LLC,)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	NO. 1:18-cv-00332
)	
CASTLE MORTGAGE CORPORATION)	
and LOANCARE, LLC,)	
)	
Defendants.)	

NOTICE OF REMOVAL

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF TEXAS, AUSTIN DIVISION

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant LoanCare, LLC (“LoanCare”), without waiving any defenses available under state and/or federal law, hereby removes this action from the District Court of Travis County, Texas, to the United States District Court for the Western District of Texas, Austin Division. This case is properly removable under diversity jurisdiction. Accordingly, LoanCare hereby removes this action to this Court and in support states as follows:

I. BACKGROUND

1. On or about March 26, 2018, Plaintiff 360 Mortgage Group, LLC (“Plaintiff”) filed a Complaint (the “Complaint”) against Castle Mortgage Corporation (“Castle Mortgage”) and LoanCare in the State Court of Travis County, Texas, Cause No. D-1-GN-18-001510 (the “Action”).

2. True, correct and redacted copies of all process, pleadings, and orders on file in

the Action are attached hereto as **Exhibit A**.

3. The Complaint seeks a declaratory judgment and makes claims for breach of contract, fraud, fraud in the inducement, negligent misrepresentation, negligence, and conspiracy. (Ex. A, Compl., ¶¶ 26-27.)

4. LoanCare was served with the Complaint on April 3, 2018. LoanCare is removing the Action within thirty days of this date. Therefore, this removal is timely pursuant to 28 U.S.C. § 1446(b).

5. LoanCare denies all allegations set forth in the Complaint, denies that Plaintiff has stated a claim for which relief may be granted, and denies that Plaintiff is entitled to relief of any kind.

6. However, presuming, for jurisdictional purposes only, that Plaintiff's claims are valid, this Court has original jurisdiction over this case because diversity jurisdiction exists.

7. Defendant Castle Mortgage has consented to removal as evidenced by its Notice of Consent to Removal, attached hereto as **Exhibit B** and filed herewith.

8. By filing this Notice of Removal, LoanCare does not waive any of its denials, objections, or affirmative and other defenses.

II. DIVERSITY JURISDICTION

9. Pursuant to 28 U.S.C. §§ 1332, 1348, 1441, and 1446, and this Court's diversity jurisdiction, removal of the Action to this Court is appropriate.

10. This Court has original diversity jurisdiction over the Action under 28 U.S.C. § 1332.

11. Section 1332 provides, in pertinent part, that the "district courts shall have

original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between . . . citizens of different states.” 28 U.S.C. § 1332(a)(1).

12. Here, both the requirements for original diversity jurisdiction under 28 U.S.C. § 1332 are satisfied.

A. Complete Diversity of Citizenship Exists Between Plaintiff and the Defendants.

13. Plaintiff is, and at the time of the filing of the Complaint, a “foreign limited liability company with its principal place of business in Austin, Travis County, Texas.” (*See* Ex. A, Complaint, ¶ 4.) Accordingly, for purposes of determining diversity of citizenship, Plaintiff is a citizen of Texas.

14. At the time of the commencement of the Action, LoanCare was, and still is, a Virginia limited liability company. Although the Complaint alleges that LoanCare’s “principal place of business is in Jacksonville, Florida,” (Ex. A, Complaint ¶ 6), in fact its principal place of business is located in Virginia Beach, Virginia.

15. For diversity jurisdiction purposes, “a limited liability company is considered to be a citizen of every state and country of which its members are citizens.” *Hedge Capital Invs. Ltd. v. Sustainable Growth Group Holdings LLC*, 593 F. App’x 937, 940 (11th Cir. 2014).

16. LoanCare has a single member, ServiceLink NLS, LCC (“ServiceLink”). ServiceLink is headquartered in Pittsburgh, Pennsylvania. Accordingly, LoanCare is a citizen of Virginia and Pennsylvania.

17. Castle Mortgage Corporation is Delaware corporation with its principal place of business in San Diego, California. (Ex. A, Compl. ¶ 5.)

18. For purposes of diversity, a corporation is a “citizen of the State where it has its principal place of business.” *Hertz Corp. v. Friend*, 559 U.S. 77, 93 (2010). Accordingly, for diversity purposes, Castle Mortgage is a citizen of California.

19. Therefore, complete diversity of citizenship exists in the Action.

B. The Amount in Controversy Exceeds the Jurisdictional Amount.

20. Diversity jurisdiction requires an amount in controversy of greater than \$75,000.00, exclusive of interest and costs. *See* 28 U.S.C. § 1332(a).

21. In this Action, Plaintiff seeks to recover more than \$200,000.00. (Ex. A, Compl. ¶ 1.)

22. Accordingly, Defendants have established that the amount-in-controversy is satisfied.

23. In sum, complete diversity exists and the amount in controversy requirement is satisfied. Accordingly, this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332. Removal is proper.

III. VENUE

24. Venue is proper in the Western District of Texas, Austin Division, pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 90(a)(3), because this district and division encompass the State Court of Travis County, Texas, the forum from which the case has been removed.

IV. NOTICE

25. Pursuant to 28 U.S.C. § 1446(d), a Notice of Filing Notice of Removal, attaching this Notice of Removal, is being filed contemporaneously with the Clerk of the State Court of Travis County, TX, a copy of which is attached hereto as **Exhibit C**.

26. Upon information and belief, the pleadings attached hereto as **Exhibit A** represent all the pleadings filed in this action in the state court.

27. This Notice of Removal is being served on the adverse party as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant hereby removes the Action to this Court.

This 23rd day of April 2018.

Respectfully submitted,

LOANCARE, LLC

/s/ Virginia Bell Flynn

Virginia Bell Flynn

Texas Bar No. 24101258

TROUTMAN SANDERS LLP

4320 Fairfax Avenue

Dallas, Texas 75205

Telephone: (804) 697-1480

Email: virginia.flynn@troutman.com

Counsel for Defendant LoanCare, LLC

CERTIFICATE OF SERVICE

I certify that I have on this day served a true copy of the within and foregoing *Notice of Removal* with the Clerk of Court by using the ECF system, which will in turn send notification of such filing via email to:

Jason W. Snell, Esquire
John Robert Skrabanek, Esquire
W. Lance Cawthon, Esquire
THE SNELL LAW FIRM, P.L.L.C.
Chase Tower
221 W. 6th Street, Suite 900
Austin, Texas 78701

This 23rd day of April 2018.

/s/ Virginia Bell Flynn

Virginia Bell Flynn

Texas Bar No. 24101258

Counsel for Defendant LoanCare, LLC